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10/576,462	04/20/2006	Louis Brissot	4590-491	7174
33308	7590	07/22/2009	EXAMINER	
LOWE HAUPTMAN & BERNER, LLP			PARKER, AUTUMN H	
1700 DIAGONAL ROAD, SUITE 300				
ALEXANDRIA, VA 22314			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see page 2, filed 09 July 2009, with respect to Claims 10 and 11 have been fully considered and are persuasive. The 35 U.S.C. 112 rejections of Claims 10 and 11 have been withdrawn. However, the 35 U.S.C. 102(b) rejections on those claims is still outstanding, as noted below, and as such, the withdrawal of the 112 rejection does not place the application in condition for allowance.
2. Applicant's arguments filed 09 July 2009 have been fully considered but they are not persuasive. Applicant argues that Claim 18 is further limiting by virtue of the additional limitation for "constantly" directing the light radiation. The Examiner has found support for this limitation on page 6, lines 9-15, of the original specification. It is clear from the specification, however, that the invention does not place any "sequential device" in the optical path, in order to avoid limiting "sensitivity and choice of processing frequency of the sensor" (page 6, lines 12-15). As such, the Examiner fails to see how "constantly" directing the light is distinct from merely directing the light. Though there is a single word variation in the language of the limitations, it is not sufficient to further limit the claim, as evidenced by Applicant's original specification.
3. Applicant's arguments filed 09 July 2009 have been fully considered but they are not persuasive. Applicant argues that Hall does not teach the subject matter recited in independent Claim 10. Applicant states that Hall specifically does not teach that the incident light will necessarily be reflected to the imaging sensor, and that the light is not

incident on separate areas of the sensor as required by instant Claim 10. However, Hall teaches that the mirrors (Fig. 5, [10] and [11]) act as both mirror and filter. The mirror reflect some portion of light to the sensor and a separate portion (of a specific "handedness") to the polarization encoded medium (Fig. 5, [17]; col. 5, lines 28-64). As shown in Hall, Fig. 5, at least some portion of light incident through each pupil arrives at the sensor. Further, as shown in Hall, Fig. 5, the light incident through the bottom pupil reaches the bottom portion of the sensor and light incident through the top pupil reaches the upper portion of the sensor. Claims 11-13, 15 and 17-18 depend from Claim 10 and are rejected for at least the same reasons as stated supra, in addition to the reasons detailed in the outstanding Office Action dated 09 March 2009.

4. Regarding Claim 13, Applicant argues that Igel does not disclose any components within the spaces on the sensors. The Examiner agrees with that assertion, but points out that Igel teaches spaces on a sensor substrate and further teaches that it is known to place the signal processing means in an advantageous position in relation to the substrate. As stated in the previous Office Action, It would have been obvious to a person having ordinary skill in the art at the time the invention was made to have placed signal processing circuitry in the spaces provided on the sensor as a logic area to utilize to maximize efficient use of the space. This would be necessary in order to miniaturize the components as taught by Igel.

5. Applicant additionally argues that the combination of references constitutes improper hindsight reasoning. However, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning.

Art Unit: 2862

But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper.

See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971). As the rejection relies only on Igel's teaching of maximizing efficient use of space and advantageous positioning, it is a proper reconstruction.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AUTUMN PARKER whose telephone number is (571)270-3916. The examiner can normally be reached on Mon-Thurs, 8:00 am - 5:00 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Assouad can be reached on (571) 272-2210. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AP
17 Jul 2009

/Melissa J. Koval/
for Patrick J. Assouad, Examiner of Art Unit 2862